

MT LEGISLATIVE HISTORY

Chapter 63 1987

Bill H 68 S _____

Original bill & hist. ☒ C

H. Committee on Business & Labor

S. Committee on Business ^{Industry} ~~Education~~

Hearing Date(s) 1-9 ☒ C

Hearing Date(s) 1-29 ☒ C

_____ ☐ C

1-30 ☒ C

_____ ☐ C

2-4 ☒ C

_____ ☐ C

2-5 ☒ C

2-10 ☒ C

Date Out 1-16 ☒ C

2-10 ☒ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____

Report _____

CS-32
1985

STATUS SHEET

50TH LEGISLATIVE SESSION

BUSINESS AND LABOR

COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURREN- IN AS AMENDED DATE
22	1/8/87	1/8/87	1/8/87			1/8/87					
30	1/7/87	1/7/87	1/9/87			1/9/87					
31	1/9/87	1/9/87	1/16/87			1/16/87					
34	1/6/87	1/6/87	1/6/87	1/6/87							
41	1/7/87	1/7/87	1/7/87			1/7/87					
44	1/6/87	1/6/87	1/6/87				1/6/87				
51	1/13/87	1/13/87	1/14/87	1/14/87							
52	1/13/87	1/13/87	2/11/87								
54	1/02/87	2/16/87	2/16/87								
66	1/5/87	2/19/87	2/20/87			2/20/87					
67	1/5/87	1/23/87	1/28/87			1/28/87					
68	1/6/87	1/9/87	1/16/87			1/16/87					
80	1/12/87	1/19/87	1/22/87			1/22/87					
94	1/12/87	1/14/87	2/10/87			2/10/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

structured was dominated by law enforcement, and wanted to get at least one more member from the private industry on the board. He said they have no objection of having one public member on the board as long as they have one more representative from the private industry on it so that they have control over their own industry.

CLOSING

Representative Kitselman stated that in 1983 Representative Dan Harrington developed this bill because there was a problem of the private security business was not regulated and was dominated by the sheriff and police auxiliary. He stated that in 1985 the bill was modified and the board was created and again the board was dominated by the sheriff and police auxiliary. He said the private security group want to be able to regulate their own industry and realign the board so that it does represent their own interest with the coordination and liaison of the current publicly elected police and sheriff departments.

HOUSE BILL NO. 68 - Revising Security Patrolmen and Investigators Law sponsored by Representative Les Kitselman. Representative Kitselman stated that he would let the proponents speak on the bill.

PROPONENTS

Robert Evans, President of the Montana Association of Private Investigators Security Operators. Mr. Evans proposed some amendments to correct some discrepancies and make the language more consistent in paragraphs 20 and 21, but other than that they support the bill as submitted. See Exhibit No. 1.

Craig Christie, Secretary-Treasurer of Montana Association for Private Investigators and Security Operators and owner of Legal Investigation Bureau in Billings. Mr. Christie stated that he supported the bill and agreed with Mr. Harrison's comment that in recent years the standards and qualifications of private investigators and private security persons had improved. He stated that they need to be governed by their own industry, and that HB 68 allows them to work with the statutes and keeps the qualifications and the professionalism and upgrading current.

Clayton Bain, Chairman of the Board of Private Investigators and Security. Mr. Bain stated that this bill is a joint effort by the board and industry to clarify the language in the 1983 bill and to give the board more definite authority. He said the board supports this bill, and the only portion they remain neutral on is the repeal of section 406, casual

employment. He stated that they have tried to determine a definition under the administrative rules of what casual employment means. See Exhibit No. 2.

OPPONENTS

Tom Harrison, Montana Sheriff's and Peace Officers Association. Mr. Harrison stated this bill reverses the roles of the law enforcement people who started this program, and subjugates them to a private security board with three private security and only two public law enforcement people and a post member which is a public member. Another concern he had was that the badge is a symbol of authority and law enforcement people are the only ones with badges, but this bill would change that. He said the private security people's duties are not the same as the law enforcement people's and the distinction of the badges is a lot more than the word "metal" for the badge.

Chuck O'Reilly, Sheriff of Lewis and Clark County and member of the board of directors for the Montana Sheriff's and Peace Officer's Association. Mr. O'Reilly stated that the original purpose of this law was to protect the public by eliminating unscrupulous non-law enforcement personnel in private security agencies by establishing standards and requirements for their conduct and control. He stated that passage of this bill eliminates section 37-6-406, which is the law enforcement exemption of the current law. He stated that Montana's law enforcement personnel are highly regulated and controlled under current statutes for their initial training requirements, and placing law enforcement personnel under an additional contradicting statute would create severe conflicts with local with local departmental control and management of their officers, including training, hiring and other personnel practices. See Exhibit No. 3.

Mike Shafer, Sheriff of Yellowstone County and President of the Montana's Sheriffs and Peace Officers Association. Mr. Shafer stated that they want to go on record as opposing this bill. He said if this bill passed the way it is now, it would certainly affect law enforcement all over the state.

Beverly Gibson, Montana Association of Counties. Ms. Gibson stated that they support the comments made by the Montana Sheriffs and Peace Officers Association.

George Allen, representing the Montana Retailer Association. Mr. Allen stated they support the bill with an amendment to change the reading from "which at the time is not open to the public" to "has little contact with the public". See Exhibit No. 4.

There being no further discussion by proponents or opponents, Vice Chairman Thomas asked for questions by the committee.

QUESTIONS

Representative Swysgood asked Representative Kitselman to explain the language being deleted that refers to being a citizen of the United States. Representative Kitselman responded that in some cases they may employ someone that is a Canadian citizen, they would be able to be employed by the security firm as long as they meet all the standards of the contract security. Mr. Harrison also responded on page 11 the requirement that citizenship be present is still retained.

Representative Brandewie asked whose insurance covered the peace officers that were moonlighting, was it the county's, or were we exposing the county to further liability when these people were working unsupervised by their elected sheriff. Mr. Harrison responded that if they were working for a county function, the county has the insurance; if he is working as part of the sheriff's department, he would be covered under that same policy, and if he is working for a public entity, he would be covered under that entity's insurance policy which is almost always the same policy.

Other questions were asked regarding the insurance coverage if the sheriff or peace officer worked in public places, such as county functions, and if they worked for private entities, such as a private dance or bar. The response was that the county functions were covered by the county, and if they were in a private entity, that particular entity's insurance would cover the officer. Other questions dealt with if an officer was working in a private capacity and made a mistake, if the county would be in a law suit. The response was that if it was a county function, the officer or private security person would be named personally, and the county could be named; but if they worked for the county, the county would be named in the law suit.

Representative Simon asked Mr. Allen why the amendment he proposed was important to the bill. Mr. Allen explained that the law goes further than was intended in this one area under the present law. He stated that if the store has an employee that was assigned to security, and that employee is under the employment of that company or store and would be covered under that store's insurance policy, the present law includes him in the security laws that requires him to get licenses, etc. as the rest of the private security people. He said he didn't think that was the intent, and this amendment would ensure that a store employee who works

within the confinements of one store and does no outside security work at all, would be excluded to having to buy a license.

Representative Simon asked if a deputy works as a private security and are under the sheriff's control, would they be acting as private contractors. Sheriff O'Reilly responded that, as stated under the existing statute, a reserve officer or a regular officer is performing any kind of peace officer function, he is under the authority or control of the sheriff.

Representative Simon asked if the money earned by the deputy while off-duty was kept by the deputy or into the sheriff department's budget. Sheriff O'Reilly stated that each county differs. He said that in Lewis and Clark County both the reserve officer and regular officers are paid through an account whereby the employing entity or the requesting entity pays the reserve force the sum of money that had been agreed upon, and that money is then distributed by the reserve, which is a non-profit organization, to the employee who worked, and a portion of it goes back into a reserve fund which pays for their uniforms, weapons, and training. He stated that there are no county monies expended in that fashion, it is based on a number of weeks they worked, and a percentage goes back into a reserve.

Questions were asked regarding training for the use of firearms, if a written examination was required, and who did the training. The response was that the training was done by law enforcement people that were trained in instructing, and that a written examination was required.

More discussion on the badges worn by both the law enforcement people and the private security, and why the word "metal" was inserted. Mr. Kitselman explained the difference between the badges worn by the police officer and those worn by the private security, that the private security wear the cloth badge which usually includes emblems of their particular company, and the metal badge is reserved for the police officer, sheriff, and some federal officers.

Representative Brandewie asked how extensive was the training for the reserve force and Sheriff O'Reilly stated that he required over 400 hours of training and is a two-year training process.

Representative Glaser asked who has administrative control over the off-duty and auxiliary officers. Sheriff O'Reilly stated that state law requires that a coordinator be appointed, and that the only time a reserve officer can be

activated is at the direction and control of the chief of police or the sheriff of that department.

CLOSING

Representative Kitselman stated that there is a basic difference in the philosophy, law enforcement personnel are given the power to arrest, and the private security personnel are there to observe and report. He said that a lot of businesses do prefer the off-duty officer because they have the badge, the firearm, and the representation of the total law enforcement department. He stated that when the law enforcement people and the private security are bidding on the same contracts, it is difficult for the private sector to compete when they have to supply to own vehicles, uniforms, radios and controls, and the most of all the liability insurance policy. He stated also the concern of the impact on the jobs for the private security sector, who are taxpaying citizens and taxpaying corporations.

EXECUTIVE ACTION - January 9, 1987 - 9:30 a.m.

ACTION ON HOUSE BILL NO. 30

Representative Glaser moved that House Bill No. 30 DO PASS.

Representative Glaser moved to amend House Bill No.30. The motion carried unanimously.

Representative Pavlovich moved a further amendment to basically restrict the bar owners and taverns that have beer, wine, or an all-beverage license to supply in event of a strike. Motion carried unanimously.

Representative Wallin moved a further amendment to House Bill No. 30 which would open it up to all licenses. Motion failed.

Representative Brandewie moved that a "severability" clause be inserted in the bill. Motion carried unanimously.

The original motion by Representative Glaser that House Bill No. 30 DO PASS AS AMENDED was voted on. Motion carried with Representatives Thomas and Pavlovich voting no.

ADJOURNMENT

Meeting adjourned at 9:50 a.m.

REP. LES KITSELMAN, Chairman

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. HOUSE BILL 68DATE JANUARY 9, 1987SPONSOR REP. LES KITSELMAN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Chuck C. Rullo	not support + ...		X
Mike Schuler	not support + ...		X
Clayton Bain	Chairman, Board of ... Investigation + Security ...	✓	
Robert B. ...	not support + ...		
John ...	not support + ...		X
Tom Harrison	not support + ...		X
Jim ...	LEGAL INVESTIGATION BUREAU	X	
Ray ...	G. H. R. D. Inc.	X	
Ray ...	North Valley Security	X	
Beverly ...	MNC		X
Curt ...	MSPDA		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



Executive Office
P.O. Box 440
34 West Sixth
Helena, MT 59624
Phone (406) 442-3388

EXHIBIT 4
DATE 1/9/87
HB 69

January 5, 1987

MEMO TO: Representative Les Kitselman

Dear Representative Kitselman,

In reference to your House Bill #68, I would like to propose an amendment on page 7 line 1.

Present Reading: Which at the time is not open to the public.

Proposed Amendment would read: Has little contact with the public.

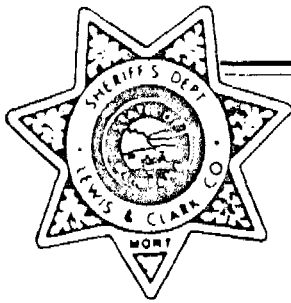
Les, I hope this small amendment to your bill meets with your approval. The present language creates a problem for some of our retailers.

I would like to discuss this with you at your convenience.

Sincerely,

George Allen
Executive Vice President
MRA

GA/ca



LEWIS & CLARK COUNTY

EXHIBIT 3
DATE 11/9/87
HB 68

SHERIFF'S DEPARTMENT

228 E. Broadway

Helena, MT 59601

406-443-1010 Business

406-442-7880 Emergency Only

CHUCK O'REILLY, SHERIFF

HB68 PRIVATE SECURITY BILL

The original purpose of this law was to protect the public by preventing and eliminating unscrupulous non-law enforcement personnel in private security agencies by establishing standards and requirements for their conduct and control.

Passage of this proposed bill eliminates the Section 37-60-406, which is the law enforcement exemption of the current law. Montana's law enforcement personnel are highly regulated and controlled under current statutes from their initial training requirements right on through everything they do. Placing law enforcement personnel under an additional contradicting statute would create severe conflicts with local departmental control and management of their officers, including training, hiring and firing, uniform requirements, and other existing personnel practices. Additionally passage of this bill would place Law Enforcement Reserve Forces in an untenable situation with regards to current statutes already regulating reserves. Past legislative intent is clearly defined in our current law regarding exempting law enforcement as well their desire to clearly delineate between sworn law enforcement personnel and private security. I would direct your attention to MCA 37-60-407 regarding prohibiting private security from utilizing a badge during the course of their employment. This was to protect the public by preventing confusion as to who is law enforcement and who is not. The proposal before you throws this protection out the window. The current law has worked well in regards to protecting the public and needs no deletions or revisions. I respectfully request you kill HB68 in the interest of justice and public protection.

Sincerely,

CHARLES M. O'REILLY, SHERIFF

CMO:hb

DATE 11/9/87

HB 68

8.50.423 DEFINITIONS (1) "Casual employment" means employment which comes about fortuitously and is for no fixed duration of time. An engagement or employment is not "casual" where a person is employed to do a particular service or class of service recurring somewhat regularly, or with a fair expectation of continuance for a more or less extended sequence or period of time, such as every Saturday night, a week, or a month.

This definition does not apply to peace officers or reserve officers performing security guard functions for another governmental agency, or to security of in-custody inmates held elsewhere than at a custodial institution or jail or when private security companies are unwilling or unavailable to provide the service.

All other exceptions under this "casual employment" rule shall be determined by the board based upon the facts presented.

(2) "Dishonorable discharge" means any military discharge which specifically states dishonorable discharge.

(3) "Experience"; the term "year" shall mean 12 average work months (including leaves for vacation with pay) during which the individual was engaged in full time employment. Full time employment is considered to be employment for compensation when the work schedule constitutes at least 1800 hours annually or more. Self employment must be verified by someone that knows of your experience and self employment condition.

(4) For purposes of 37-60-321 (4), MCA, any crime involving moral turpitude means generally anything done contrary to justice, honesty, modesty, or good morals, including acts of baseness, vileness or depravity in the private or social duties which a man owes to his fellow man and to society in general. Such acts include, but are not limited to: assault or evidence of assaultive behavior; assault and battery, larceny or embezzlement, shoplifting, crimes involving fraud or misrepresentation; obscenity; public indecency; any firearm violation; sexual offenses; resisting an officer or legal process; vandalism; aiding in an escape; chronic alcoholism, alcohol addiction, a third conviction of driving under the influence over any five-year period and drug addiction.

(5) For purposes of exemption from licensure under Title 37, Chapter 60, MCA, "insurance adjuster" refers to any person, employed by an insurance company, who is licensed by the state of Montana as an insurance adjuster, who shall be exclusively under the control and supervision of his employer..subject to a master-servant relationship and not as an independent contractor and performs no surveillance activities.

(6) "Unprofessional conduct" means the failure to conform to and abide by all the standards, rules and regulations set forth in Title 37, Chapter 60, Montana Codes Annotated and Title 8, Chapter 50, Administrative Rules of Montana, which regulates the security patrolmen and private investigator professions in

EXHIBIT 1
DATE 1/9/87
HB 68

HOUSE BUSINESS AND LABOR COMMITTEE

HEARING ON HB 31 AND HB 68

FRIDAY, JANUARY 9, 1987

APPEARANCE AND INFORMATION BY:

ROBERT B. EVANS
TIMBERLINE INVESTIGATIONS, INC.
P.O. BOX 1301
KALISPELL, MT 59903-1301
(406) 257-1636

President of Montana Association of Private Investigators and
Security Officers

Member of: National Council of Investigators and Security Services
Member of: California Association of Licensed Investigators

IN SUPPORT OF THE SUBMITTED BILLS

EXHIBIT 1
DATE 1/9/87
FB 68

TESTIMONY IN SUPPORT OF HB-31 AND HB-68

Mr. Chairman and Committee Members:

We wish to express our appreciation for this opportunity to acquaint you with the situation. We hope it will provide an understanding of our concern as small business operators.

I- BACKGROUND

Private security, including investigators, has become an explosive growth industry in the past seven to ten years. There are now more than 1.2 million persons in the private sector as opposed to about 600,000 persons in the public sector. Montana has come late on the scene. There are only about 400-500 security persons of all types in the state. On an average, these small firms gross between \$35,000 to \$50,000 annually with net income, after expenses and mandatory contributions, of \$14,000-\$15,000.

Prior to 1983 these businesses were licensed and controlled by a Director of Professional and Occupational Licensing under the Department of Commerce. He was responsible for developing and enforcing "reasonable" rules.

Information was quickly and easily obtained, complaints were promptly handled, fees were moderate (application \$25, test \$10, renewals \$10), persons carrying firearms needed only to "comply with all applicable state laws and county and city ordinances." Individual employees did not have to be licensed.

There were 169 license holders of all types. There were 105 investigator licenses and 64 security licenses issued with 31 of the licensees being "dual" operators, making a total of 138 persons or firms. There were only five categories requiring licensure including "alarm installers and monitors." A licenseholder could have employees under his license and supervision without additional fees.

During the 48th Legislature HB523 was passed. This bill completely rewrote Title 37, Chapter 60. It created a seven man Board, attached to the Department of Commerce for "administrative purposes only." The Board is to be fully self-funded from license fees. All costs to the Board, including administrative support, legal advice and support, and advice and support of the Attorney General, are to come from license fees.

On first glance the bill appeared to regulate the private sector in the best interests of the public safety and welfare. In fact it did not! It was filled with exceptions, ambiguities, and omissions. The Board votes to take some action but it is the "responsibility" of the Department of Commerce to carry it out. The Department of Commerce states that actions and decisions are the "responsibility of the Board."

HB 523 became effective law with the Governor's signature April 18, 1983. As enacted, Title 37, Chapter 60 provided 13 specific categories of licensure (but dropped alarm installers) and for the first time required all employees to be individually licensed. Under the new law

hotels, motels, recreational complexes and retail stores having "security" personnel were included.

Peace officers, reserve officers, railroad agents, credit investigators, lawyers and law students were exempted.

During the 49th Legislative session HB 127 was introduced to correct previous problems. The bill eventually signed into law contained even more exemptions and ambiguities.

Exemptions now include "para-legals" and "internal auditors." Alarm installers were subjected to licensure again. HB 127 revising Title 37, Chapter 60 was signed into law in the closing days of the 1985 session, and had an effective date of October 1, 1985.

As of June 20, 1985 there were a total of 254 licenses of all types issued. However, no information was given as to how many were "dual" operators. This was only a gain of 85 licenses in two years. Testimony given to the 1983 legislative committees was that "this law will license 500 persons in the first years, with 1,000 by the second year."

License figures furnished February 28, 1986 were 93 employee licenses and 126 employee licenses for a total of 219 of all types-- a gain of only 50 licenses since 1982 even though many, many more persons were subject to license requirements.

License figures obtained January 5, 1987 are 138 employer licenses and 200 employee licenses of all types. A gain of only 169 over a four year period!

In June 1986 a \$35 assessment for each license was made. In August the Board voted to increase license fees to \$150 for each licensee and each armed employee. These increases amount to several hundred dollars for the small firms to several thousand dollars for intermediate and larger firms. Many will simply go out of business, as they cannot afford the costs.

The forecast budget for operation of the Board has increased from \$23,906 for FY1984 to over \$41,000 for FY1987 with no increase in benefits to the general public, nor to our profession. License application fees were \$25 and annual renewals were \$10 on January 1, 1983. This year applications will cost more than \$100 and annual renewals \$150 for each license. By definition of law most of us must carry both a Security and an Investigators license.

II- THE PROBLEM:

A. Current law is too vague and ambiguous.

B. Current law does not provide sufficient enforcement authority to force license compliance.

EXHIBIT 1
DATE 1/9/87
HB 68

C. Persons in compliance with the law must pay the full cost--in form of fees--of all investigative and enforcement efforts. The Board of Private Security Patrolmen and Investigators has no way to collect any costs from those in violation of the law.

D. Current law contains too many exemptions and "loop-holes" and permits evasion of license requirements. In some cases it has taken 2 to 3 years to force licensure compliance on violators. County Attorneys and other local officials have been extremely reluctant to take action against non-complying firms or persons.

III- THE SOLUTION

The Montana Association of Private Investigators and Security Operators (MAPISO) has worked diligently for the past eleven months to prepare and coordinate legislative changes to correct inequities and problems inherent in the current law.

HB-68 and its companion HB-31 are the results of these efforts. The bills have been prepared in close cooperation with legislative members, individual members of the license board, and the whole of the Board meeting in formal hearing.

WE STRONGLY URGE THE BILLS BE APPROVED AS SUBMITTED, WITHOUT CHANGES OR AMMENDMENTS!!

CLOSING

Rep. Driscoll made no further comments.

EXECUTIVE ACTION - January 16, 1987 - 8:50 a.m.

ACTION ON HOUSE BILL NO. 68

Rep. Glaser moved the House Bill No. 68 DO PASS.

Rep. Glaser moved the amendments to House Bill No. 68. The motion carried with Rep. Pavlovich opposed.

Rep. Nisbet moved to amend page 20, lines 21 and 22 to restore original language. The motion carried unanimously.

Rep. Brandewie moved House Bill No. 68 DO PASS AS AMENDED. The motion carried with Rep. Pavlovich opposed.

ACTION ON HOUSE BILL NO. 31

Rep. Glaser moved House Bill No. 31 DO PASS. Rep. Glaser moved the amendments. The motion carried unanimously.

Rep. Glaser stated the Board is now a balanced and a quasi-judicial board as required by law and both the law enforcement people and the private security people were satisfied with the amendments.

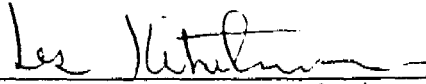
Rep. Brandewie moved House Bill No. 31 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 122

Rep. Brandewie moved DO PASS. The motion carried unanimously.

ADJOURNMENT

There being no further business to come before this committee, the hearing was adjourned at 9:15 a.m.



REP. LES KITSELMAN, Chairman

STANDING COMMITTEE REPORT

JANUARY 16

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 68

☒ do pass

☐ do not pass

☐ be concurred in

☐ be not concurred in

☒ as amended

☐ statement of intent attached

REP. LEE RITSELMAN

Chairman

REVISING SECURITY PATROLMEN AND INVESTIGATORS LAW

AMENDMENTS AS FOLLOWS:

- 1) Title, line 10
Following: "37-60-405"
Strike: ", "
Insert: "THROUGH"
- 2) Title, line 11
Following: "37-60-305"
Strike: ", "
Insert: "AND"
Following: "37-60-305,"
Strike: "AND 37-60-405"
- 3) Page 2, line 9
Following: "wears,"
Strike: "or"
Insert: ", "
- 4) Page 2, line 10
Following: "to"
Insert: ", possesses, or has access to"
Following: "a"
Strike: "concealed"
- 5) Page 3, line 12
Following: line 11
Insert: "(3) requiring licensees to file such insurance policy or proof of financial responsibility as the board considers necessary with the board;"
Renumber: subsequent subsections

FIRST

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JANUARY 16

97

19.....

- 6) Page 20, line 17
Following: line 16
Insert: "Section 15. Section 37-60-406, MCA, is amended to read:
"37-60-406. Peace officer's casual employment. A peace officer,
as defined in 46-1-201, or a reserve officer, as defined in
7-32-201, is not prohibited or restricted from accepting and
engaging in employment as a security guard during his off-duty
hours, provided that he does not advertise his services or
solicit employment and further provided that the chief of his
department previously approves the off-duty employment. A peace
officer or reserve officer so engaged in casual employment is
exempt from the provisions of this chapter only if the casual
employment is authorized in writing by his sheriff or chief of
police."
Renumber: subsequent sections
- 7) Page 20, line 21
Following: "carry,"
Insert: ", carry,"
- 8) Page 20, line 22
Following: "a"
Strike: "metal"
- 9) Page 22, line 20
Following: "37-60-395"
Strike: ", "
Insert: "and"
Following: "37-60-306"
Strike: "and 37-60-406,"

COMMITTEE--(S) BUSINESS & INDUSTRY

RUN DATE.... 04/22/87

CHAIRMAN--SEN. ALLEN C. KOLSTAD
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: MON THRU FRI

TIME: 10:00 A.M.

SECRETARY-CAROLYN LINDEN

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0022 HARPER, HAL	1/13	1/20	1/20/87 CLARIFY NOTICE REQUIREMENTS ON DISPOSITION OF COLLATERAL AFTER DEFAULT	CONCUR		1/20/87
HB0030 KITSELMAN, LES	1/21	1/29	1/29/87 RESPONSIBILITIES OF BEER WHOLESALER	CONCUR		1/29/87
HB0031 KITSELMAN, LES	1/22	1/29	1/29/87 CHANGING COMPOSITION OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS BOARD	CONCUR		1/29/87
HB0034 SPAETH, GARY	1/12	1/16	1/16/87 APPLICANT FOR BARBER INSTRUCTOR CERTIFICATE MUST BE LICENSED BARBER	CONCUR		1/16/87
HB0041 WINSLOW, CAL	1/21	2/06	2/6/87 CREATE MATURE DEFENSIVE DRIVING ACT; REDUCE PREMIUM RATES OVER AGE 55	CONCUR		2/6/87
HB0066 PAVLOVICH, BOB	3/02	3/16	3/16/87 LICENSING MANUFACTURERS AND DISTRIBUTORS OF VIDEO POKER MACHINES	CONCUR		3/16/87
HB0067 PAVLOVICH, BOB	2/03	3/04	3/4/87; 3/5/87 GENERALLY REVISE VIDEO MACHINE CONTROL ACT OF 1985	CONCUR AS AMENDED		3/5/87
HB0068 KITSELMAN, LES	1/22	1/29	1/29/87; 1/30/87; 2/4/87 2/5/87; 2/10/87 REVISING SECURITY PATROLMEN AND INVESTIGATORS LAW	CONCUR AS AMENDED		2/10/87
HB0080 BROWN, JAN	1/27	2/10	2/10/87; 2/13/87 NEWSPAPER CARRIER OR CORRESPONDENT NEED NOT HAVE WORKERS' COMPENSATION	CONCUR AS AMENDED		2/13/87
HB0094 SMITH, CLYDE	2/16	3/11	3/11/87 MAKE MEMBERSHIP IN RATING ORGANIZATION OPTIONAL FOR STATE WORKERS' COMP FUND	CONCUR		3/11/87
HB0098	1/21	1/30	1/30/87; 2/6/87	CONCUR		2/6/87

Sen. Weeding asked Mr. Bain what additional authority the Board would have under the quasi-judicial authority and Mr. Bain answered that they would have authority to levy fines.

Sen. Thayer asked Mr. Bain why on page 1, lines 20 and 21, that language was in there in the first place. Mr. Bain stated that was what the Association came up with originally and they have compromised on the bill to change it back to the original representation that is on the bill, and they have acquiesced.

Mr. Bain closed the hearing on HB 31 for Rep. Kitselman by stating that HB 31 is a bill which the Board feels will give them the proper amount of authority to do their job better. He stated that it was endorsed by the industry and also by the law enforcement people who did appear in support of it when it was heard in the House but could not be at this hearing. He urged the Committee's support of the bill.

CONSIDERATION OF HOUSE BILL NO. 68: Mr. Clayton Bain, Chairman, Board of PSP&I, presented HB 68 on behalf of Rep. Les. Kitselman, House District 95, Billings who is the chief sponsor for the bill. Mr. Bain noted that HB 68 was also prepared by the industry and brought to the Board last October. The Board has endorsed the bill with a few changes that were made in the House. He pointed out that on page 16, line 7 there is a printing error. The word registration should have been stricken. The bill gets rid of much of the redundant language that existed in the 1983 law, clarifies, and closes some of the loopholes the industry has had problems with. On page 20, line 23, where it states, "peace officers casual employment", it was amended in the House at the acquiescence of the industry and law enforcement to include language which exempts a law enforcement officer from licensing provisions only if the casual employment is authorized in writing by the sheriff or chief of police. Mr. Bain explained that there has been much controversy in trying to determine who is responsible for a police officer or deputy sheriff when they are working as a private security guard on their off time. In some areas they are working on the authorization of the sheriff or chief and in other places they are not. This amendment clarifies that so when the chief or sheriff authorizes it in writing, then it is known definitely that the agency is responsible for that person when he is working in the private security area. This has been conceded by law enforcement and the

private industry and the Board heartily endorses it.
(EXHIBIT 7)

PROPONENTS: Mr. Robert B. Evans, Timberline Investigations, In., Kalispell, and President of Montana Association of Private Investigators and Security Operators presented testimony in favor of HB 68. (EXHIBIT 6)

Rep. Kitselman stated that HB 68 has been worked on very heavily; however, there is still one area of concern, which is: should there be a differential between the person working as an instore plain clothes employee protecting a store against shoplifting and the uniformed security guard hired to provide security for the entire mall? That is, then, defining what constitutes casual employment. HB 68 clearly specifies who is licensed and who is not. Rep. Kitselman cited a case in Billings in which a woman was arrested for prostitution by an off-duty sheriff's deputy who had the power to make arrests. She was in a motel room with her raincoat on after making one of those little presentations whereby the delivery person does a modified strip-tease, presents you with black balloons, and a little kiss on the forehead. That arrest has put the County of Yellowstone at liable in a false arrest case. If that had been the private contract people who have the power to observe and report, versus the power to apprehend and arrest. There is a very significant difference in what they are doing as an off-duty security person and a law enforcement officer. Rep. Kitselman stated that he feels that is why HB 68 is very important and the roles must be defined. He also explained that private security agencies pay high premiums for liability insurance, and find it difficult to compete when sheriff's auxillary people come in and do it using a lot of public funds. Furthermore, they expose the entire county to all that liability. He urged the Committee's support of HB 68.

Mr. George Allen, Helena, representing the Montana Retail Association stated that in the opinion of the Association's attorneys, it could be interpreted that any store who apprehended a shoplifter could be construed as being a security officer. Some stores do not want to go through the red tape and everything of having in-store employees licensed. Mr. Allen explained that the two proposed amendments exclude store employees who work for just one employer, doesn't wear a uniform, carry a gun, etc., but they can serve as a security person. They feel

that it clarifies that those employees would not have to be licensed. Mr. Allen asked that it be noted that Mr. Len Eckle, Montana Chamber, had to leave early, but wanted it to be recorded that they endorse the amendments presented by Mr. Allen. (EXHIBIT 8)

DISCUSSION OF HOUSE BILL NO. 68: Chairman Kolstad called for questions from the Committee.

Sen. Boylan wanted to know if the security people could make arrests and, Rep. Kitselman answered that they do not make arrests in most cases, but usually get all the information they can and keep a log to help a law enforcement officer make the arrest instead. Rep. Kitselman explained that in actuality any citizen can arrest a suspicious person, but security persons usually just report and observe.

Sen. Weeding wanted to know about the training requirements and training programs. Mr. Bain explained that the Board has a training program in force presently that requires that all armed private investigators and security guards take firearms training. There are certified instructors throughout the State. He stated that he feels that eventually they will set up additional programs for both private investigators and private security in the areas of their particular fields, and HB 68 authorizes them to do that. He explained further that the persons doing the instruction are either NRA instructors, or law enforcement firearms instructors who are contracting on their own to provide this type of service.

Sen. Thayer asked Rep. Kitselman if he had any problem with the companion bills in the House, and Rep. Kitselman answered that after everyone understood how the bills worked and dovetailed with each other, there was no problem.

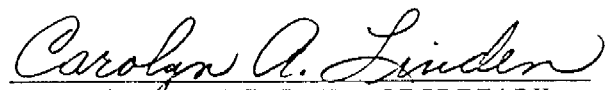
The hearing on House Bill 68 was closed.

EXECUTIVE ACTION ON HOUSE BILL NO. 31: Sen. Boylan made a MOTION THAT HOUSE BILL 31 BE CONCURRED IN. The motion was seconded by Sen. Thayer. THE MOTION PASSED UNANIMOUSLY.

DISCUSSION OF THE AMENDMENTS AND EXECUTIVE ACTION ON HOUSE BILL 68: Chairman Kolstad asked Mr. Allen to answer a question concerning the amendments which was brought to his attention by the Committee Researcher, Ms. Mary McCue.

JANUARY 29, 1987

THERE IS NO COMMITTEE REPORT FOR HOUSE BILL NO. 68 INCLUDED WITH THIS SET OF MINUTES EVEN THOUGH EXECUTIVE ACTION WAS TAKEN ON THIS BILL. IMMEDIATELY FOLLOWING THE CLOSE OF THE MEETING I WAS DIRECTED BY THE COMMITTEE CHAIRMAN TO HOLD THE BILL AND THE COMMITTEE REPORT BECAUSE THE BILL WOULD BE BROUGHT BACK INTO THE COMMITTEE FOR RECONSIDERATION. THERE WAS A GREAT DEAL OF CONCERN REGARDING THE AMENDMENTS BY SOME OF THE GROUPS SUPPORTING THE LEGISLATION, AND SEVERAL OF THE COMMITTEE MEMBERS AGREED THAT EVEN THOUGH THEY HAD VOTED TO CONCUR IN HOUSE BILL 68, THEY WOULD LIKE THE BILL PULLED BACK INTO COMMITTEE FOR FURTHER STUDY.


CAROLYN A. LINDEN, SECRETARY

BUSINESS & INDUSTRY COMMITTEE

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/29/88

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN			✓
PAUL BOYLAN	✓		
DELWYN GAGE			✓
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER			✓
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

COMMITTEE ON

DATE

1/29/87

Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
George Allen	MT. Retail Assn	HB 68	✓	
ROBERT L. CLAUSEN	CLAUSEN DIST	HB 30	✓	
Rick Davis	Dept of Revenue	HB 30	-	-
Roger Tippet	MBWA	HB 30	✓	
Clayton Bain	Board of P.I. & Private Security	HB 30 HB 68	✓	
Robert W. Evans	MT. Assoc. Pnt. Inv. & Security	HB 31 HB 68	✓	
Jim DuPont	MSPOA	HB 30	?	
TONY HARBAUGH	MSPOA	HB 30		
Gary A. Dupuis	MPASO	HB 68 HB 31		
R. E. E.	ZEKE'S DIST	HB 30	✓	
Don Bragg	Intermountain Dist	HB 30	✓	
Bob Brown	Zip Bev Mfg	HB 31 HB 30	✓	
Martin M...	Self	HB 31 HB 30	✓	
Pete Becker	Oneil Bragg Int'l Co.	HB 30	✓	
DAN HOVEN	Andersen Busch	HB 30	✓	
Clinton Anderson	Andersen Busch	HB 30	✓	
Robert Zaccari	ZEKE'S Dist 1400	HB 30	✓	
Don Angels	MT. Chamber of Commerce	HB 68	Amendments	
Adelle Jackson	MT. Beer & Wine Wholesalers	HB 30	✓	
John Delano	BN Inc	HB 30 HB 68	✓	
Will Butz	Cover County	HB 30	✓	

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 6

DATE 1/29/87

BILL NO. 31268

SENATE BUSINESS AND INDUSTRY COMMITTEE

HEARING ON HB 31 and HB 68

THURSDAY, JANUARY 29, 1987

APPEARANCE AND INFORMATION BY:

ROBERT B. EVANS
TIMBERLINE INVESTIGATIONS, INC.
P.O. BOX 1301
KALISPELL, MT 59903-1301
(406) 257-1636

President of Montana Association of Private Investigators and
Security Officers

Member of: National Council of Investigators and Security Services
Member of: California Association of Licensed Investigators

IN SUPPORT OF THE SUBMITTED BILLS

TESTIMONY IN SUPPORT OF HB-31 AND HB-68

Mr. Chairman and Committee Members:

We wish to express our appreciation for this opportunity to acquaint you with the situation. We hope it will provide an understanding of our concern as small business operators.

I- BACKGROUND

Private security, including investigators, has become an explosive growth industry in the past seven to ten years. There are now more than 1.2 million persons in the private sector as opposed to about 600,000 persons in the public sector. Montana has come late on the scene. There are only about 400-500 security persons of all types in the state. On an average, these small firms gross between \$35,000 to \$50,000 annually with net income, after expenses and mandatory contributions, of \$14,000-\$15,000.

Prior to 1983 these businesses were licensed and controlled by a Director of Professional and Occupational Licensing under the Department of Commerce. He was responsible for developing and enforcing "reasonable" rules.

Information was quickly and easily obtained, complaints were promptly handled, fees were moderate (application \$25, test \$10, renewals \$10), persons carrying firearms needed only to "comply with all applicable state laws and county and city ordinances." Individual employees did not have to be licensed.

There were 169 license holders of all types. There were 105 investigator licenses and 64 security licenses issued with 31 of the licensees being "dual" operators, making a total of 138 persons or firms. There were only five categories requiring licensure including "alarm installers and monitors." A licenseholder could have employees under his license and supervision without additional fees.

During the 48th Legislature HB523 was passed. This bill completely rewrote Title 37, Chapter 60. It created a seven man Board, attached to the Department of Commerce for "administrative purposes only." The Board is to be fully self-funded from license fees. All costs to the Board, including administrative support, legal advice and support, and advice and support of the Attorney General, are to come from license fees.

On first glance the bill appeared to regulate the private sector in the best interests of the public safety and welfare. In fact it did not! It was filled with exceptions, ambiguities, and omissions. The Board votes to take some action but it is the "responsibility" of the Department of Commerce to carry it out. The Department of Commerce states that actions and decisions are the "responsibility of the Board."

HB 523 became effective law with the Governor's signature April 18, 1983. As enacted, Title 37, Chapter 60 provided 13 specific categories of licensure (but dropped alarm installers) and for the first time required all employees to be individually licensed. Under the new law

hotels, motels, recreational complexes and retail stores having "security" personnel were included.

Peace officers, reserve officers, railroad agents, credit investigators, lawyers and law students were exempted.

During the 49th Legislative session HB 127 was introduced to correct previous problems. The bill eventually signed into law contained even more exemptions and ambiguities.

Exemptions now include "para-legals" and "internal auditors." Alarm installers were subjected to licensure again. HB 127 revising Title 37, Chapter 60 was signed into law in the closing days of the 1985 session, and had an effective date of October 1, 1985.

As of June 20, 1985 there were a total of 254 licenses of all types issued. However, no information was given as to how many were "dual" operators. This was only a gain of 85 licenses in two years. Testimony given to the 1983 legislative committees was that "this law will license 500 persons in the first years, with 1,000 by the second year."

License figures furnished February 28, 1986 were 93 employee licenses and 126 employer licenses for a total of 219 of all types-- a gain of only 50 licenses since 1982 even though many, many more persons were subject to license requirements.

License figures obtained January 5, 1987 are 138 employer licenses and 200 employee licenses of all types. A gain of only 169 over a four year period!

In June 1986 a \$35 assessment for each license was made. In August the Board voted to increase license fees to \$150 for each licensee and each armed employee. These increases amount to several hundred dollars for the small firms to several thousand dollars for intermediate and larger firms. Many will simply go out of business, as they cannot afford the costs.

The forecast budget for operation of the Board has increased from \$23,906 for FY1984 to over \$41,000 for FY1987 with no increase in benefits to the general public, nor to our profession. License application fees were \$25 and annual renewals were \$10 on January 1, 1983. This year applications will cost more than \$100 and annual renewals \$150 for each license. By definition of law most of us must carry both a Security and an Investigators license.

II- THE PROBLEM:

A. Current law is too vague and ambiguous.

B. Current law does not provide sufficient enforcement authority to force license compliance.

C. Persons in compliance with the law must pay the full cost--in form of fees--of all investigative and enforcement efforts. The Board of Private Security Patrolmen and Investigators has no way to collect any costs from those in violation of the law.

D. Current law contains too many exemptions and "loop-holes" and permits evasion of license requirements. In some cases it has taken 2 to 3 years to force licensure compliance on violators. County Attorneys and other local officials have been extremely reluctant to take action against non-complying firms or persons.

III- THE SOLUTION

The Montana Association of Private Investigators and Security Operators (MAPISO) has worked diligently for the past eleven months to prepare and coordinate legislative changes to correct inequities and problems inherent in the current law.

HB-68 and its companion HB-31 are the results of these efforts. The bills have been prepared in close cooperation with legislative members, individual members of the license board, and the whole of the Board meeting in formal hearing.

WE STRONGLY URGE THE BILLS BE APPROVED AS SUBMITTED, WITHOUT CHANGES OR AMENDMENTS!!

NAME:

Clayton B. ...

DATE:

1-29-57

ADDRESS:

3945 Canal Drive

SENATE BUSINESS & INDUSTRY

EXHIBIT NO.

7

PHONE:

442-9648

DATE

1/29/57

BILL NO.

H.R. 12748

REPRESENTING WHOM?

Board of Public Security & Investigation

APPEARING ON WHICH PROPOSAL:

H.R. 31 & H.R. 68

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

The board supports this bill & its action.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

8.50.423 DEFINITIONS (1) "Casual employment" means employment which comes about fortuitously and is for no fixed duration of time. An engagement or employment is not "casual" where a person is employed to do a particular service or class of service recurring somewhat regularly, or with a fair expectation of continuance for a more or less extended sequence or period of time, such as every Saturday night, a week, or a month.

This definition does not apply to peace officers or reserve officers performing security guard functions for another governmental agency, or to security of in-custody inmates held elsewhere than at a custodial institution or jail or when private security companies are unwilling or unavailable to provide the service.

All other exceptions under this "casual employment" rule shall be determined by the board based upon the facts presented.

(2) "Dishonorable discharge" means any military discharge which specifically states dishonorable discharge.

(3) "Experience"; the term "year" shall mean 12 average work months (including leaves for vacation with pay) during which the individual was engaged in full time employment. Full time employment is considered to be employment for compensation when the work schedule constitutes at least 1800 hours annually or more. Self employment must be verified by someone that knows of your experience and self employment condition.

(4) For purposes of 37-60-321 (4), MCA, any crime involving moral turpitude means generally anything done contrary to justice, honesty, modesty, or good morals, including acts of baseness, vileness or depravity in the private or social duties which a man owes to his fellow man and to society in general. Such acts include, but are not limited to: assault or evidence of assaultive behavior; assault and battery, larceny or embezzlement, shoplifting, crimes involving fraud or misrepresentation; obscenity; public indecency; any firearm violation; sexual offenses; resisting an officer or legal process; vandalism; aiding in an escape; chronic alcoholism, alcohol addiction, a third conviction of driving under the influence over any five-year period and drug addiction.

(5) For purposes of exemption from licensure under Title 37, Chapter 60, MCA, "insurance adjuster" refers to any person, employed by an insurance company, who is licensed by the state of Montana as an insurance adjuster, who shall be exclusively under the control and supervision of his employer..subject to a master-servant relationship and not as an independent contractor and performs no surveillance activities.

(6) "Unprofessional conduct" means the failure to conform to and abide by all the standards, rules and regulations set forth in Title 37, Chapter 60, Montana Codes Annotated and Title 8, Chapter 50, Administrative Rules of Montana, which regulates the security patrolmen and private investigator professions in

8-1376

6/30/84

ADMINISTRATIVE RULES OF MONTANA

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 7

DATE 11/29/87

BILL NO. 7413712 8/13/88

NAME:

George Allen

DATE:

1-29-87

ADDRESS:

PHONE:

447-3388

SENATE BUSINESS & INDUSTRY

EXHIBIT NO.

8

DATE

1/29/87

BILL NO.

HB 68

REPRESENTING WHOM?

MT Retail Assn

APPEARING ON WHICH PROPOSAL:

HB 68

DO YOU:

SUPPORT?

☒

AMEND?

☒

OPPOSE?

COMMENTS:

Amendments have been turned in

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



Executive Office
P.O. Box 440
34 West Sixth
Helena, MT 59624
Phone (406) 442-3388

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. _____

DATE _____

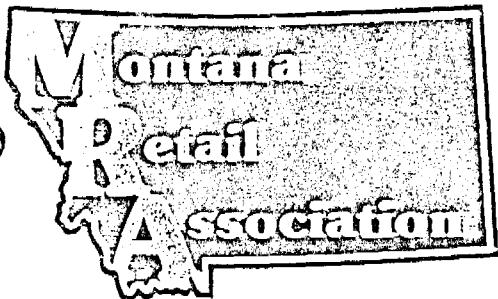
BILL NO. _____

First Amendment
HB 68

Page 6, line 25, after unarmed, ADD and

Page 7, line 1, after uniform, CROSS OFF, and is
guarding inside a structure which at the

Page 7, line 2, CROSS OFF, time is not open to the
public;



Executive Office
318 N. Last Chance Gulch
P.O. Box 440
Helena, MT 59624
Phone (406) 442-3388

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. _____

DATE _____

BILL NO. _____

Second Amendment
HB 68

Page 10, line 17, after guard, ADD: other than one employed singly and exclusively by any one employer in connection with the affairs of such employer only

Page 10, line 21, after any, CROSS OFF: unlicensed;

Page 10, line 21, after person ADD, required to be licensed

Page 10, line 25, after guard, ADD unless he is licensed.

Amendments to HB 68 Third reading (blue) copy

1. Page 6, line 22.
Following: "(1)"
Insert: "(a)"

2. Page 7, following line 2.
Insert: "(b) a person:
(i) employed singly and exclusively by a retail merchant;
(ii) performing at least some of his work for the retail merchant as a private security guard; and
(iii) who has received training as a private security guard from the employer or at the employer's direction;"

& I Committee Researcher, Mary McCue, and then the committee would take the bill under further consideration.

EXECUTIVE ACTION ON SENATE BILL NO. 130: After study by the committee of the Fiscal Note for SB 130, it was concluded that any financial impact apparently would be at the local levels rather than at the state level, and that there would be no added expense to the State. A MOTION was made by Sen. Walker and seconded by Sen. Williams that SB 130 be given a DO PASS recommendation from the committee. The MOTION PASSED UNANIMOUSLY.

RECONSIDERATION OF HOUSE BILL NO. 68: A motion by Sen. Thayer, seconded by Sen. Walker that HB 68 be reconsidered passed unanimously. Committee Researcher, Mary McCue explained that there has been some confusion concerning amendments to this bill and the sector who proposed the bill has some amendments which they would like brought before the committee. Mr. Clayton Bain, Chairman of the Board of Private Security Patrolmen & Investigators, stated that he met with George Allen, the representative of the Retail Merchants' Association, and assured him that if he was not satisfied with the fact that they felt the bill as written did what he was trying to do, he would come back to the committee with an amendment that would do what the Retail Merchants are trying to do. Mr. Bain explained that the question pertains to the definition of "merchant" acting under the provisions of section 46-6-502 which is the shoplifting provision in the law. That terminology states that a private person may arrest another when he is a merchant as defined in 30-11-301, and believes on reasonable grounds that the person arrested has committed a shoplifting offense. Mr. Bain feels that that section would take care of what Mr. Allen was trying to accomplish which is, that an employee of a merchant who witnesses a shoplifting offense can make an arrest and not be required to be licensed. Sen. Thayer stated that one of the concerns of the Retail Merchants is that if a store employs their own security people, they don't want to have to buy a separate license for their own store employee just because they happen to be hired as security. Sen. Thayer wanted to know if this bill covers that. Mr. Bain answered that it does not and that one of the original purposes included what are called proprietary security people who are hired by a firm to protect their own internal interests. They could be called security guards, etc. Mr. Bain stated that the Board feels that they should be required to be licensed and should be under the control of the state so that they are trained and have

knowledge of what their rights are as security guards and so that the rights of the public are not trampled. One of the original reasons for a law requiring training stemmed from shoplifting arrests by security people of retail merchants who acted improperly. Lawsuits were instigated because of the botched arrests and there were a lot of problems. Mr. Bain stated that the Board opposes any amendment which would exempt them from the training provisions. He stated further that the Private Security Association is in opposition to any such amendment and they had discussed it with him. Sen. Thayer stated that he was not taking a position on the question, but that Mr. Allen had told him that many of their stores are already purchasing seven or eight licenses and this just seems to be one more license to contend with and pay for. They feel that they have their own means of training security people and do not need further programs for training. Chairman Kolstad asked Mr. Bain if he saw that as a real concern and Mr. Bain answered, "Yes." The Board disagrees with Mr. Allen in that he is referring to training programs that some firms do have such as J. C. Penny Co. They do have an excellent training program and the Board has no quarrel with that. However, the Board does not feel that they should exempt one class of people from another class when they are making laws for the entire state, because some stores do not have good training programs and they hire people who they shouldn't be hiring and that is why the Board insists they should have control over those kinds of situations. Chairman Kolstad asked if the training program would in effect then be a duplication of effort for certain businesses in Montana, and Mr. Bain answered that they would recognize certain training programs that would meet their requirements. Chairman Kolstad then asked if the Board would make that determination, and Mr. Bain answered, "Yes." Sen. Walker wanted to know if under the amendment proposed by Mr. Bain, an individual hired for security reasons didn't call himself a security guard, he could make arrests in the store as just an employee, and wouldn't have to be licensed. Mr. Bain answered that he wasn't looking at it from that angle, but that Sen. Walker may be right about that. Sen. Thayer wanted to know if it would be possible to have a provision that if the Board recognized a certain institution as meeting all the training requirements, they could be exempt from the training, but not the licensing. Mr. Bain stated that one of the armoured car services has their own training program which meets the Boards requirements and they are certified as a certified training program. He stated that there are several other

recognized programs, and those people are not required to repeat the state's training program. Sen. Boylan asked if they licensed them, and Mr. Bain answered, "Yes." Chairman Kolstad stated that the committee would not take further action on this bill until next week in an attempt to better understand all proposed amendments and exactly what is attempting to be accomplished by HB 68.

EXECUTIVE ACTION ON SENATE BILL NO. 79: Chairman Kolstad asked Ms. McCue to explain the status of this bill. Ms. McCue explained that she had talked to Sen. Halligan, sponsor of the bill, and he asked her to draw up further amendments that would eliminate the involvement of the State Fire Marshal and change the bill to state that notwithstanding the exclusion, on the sale or transfer of a residence, the seller shall certify that it has smoke detection equipment. That would be on the RTC and the bill would not have the option of getting a certification from the State Fire Marshal. It would take out the money part of the bill and takes out the entire section regarding the \$25 fee.

Sen. Darryl Meyer made a MOTION that the amendment to SB 79 BE ADOPTED and it was seconded by Sen. Thayer. The MOTION PASSED UNANIMOUSLY.

Sen. Cecil Weeding made a MOTION that SB 79 be given a DO PASS AS AMENDED recommendation which was seconded by Sen. Mike Walker. The MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 202: Sen. Cecil Weeding made a MOTION that SB 202 be given a DO PASS recommendation. The Motion was seconded by Sen. Darryl Meyer. The MOTION PASSED with Sen. Paul Boylan and Sen. Ted Neuman Voting "NO".

Chairman Kolstad announced that the committee will not take action on HB 98 until the members have time to further study the bill and proposed amendments. It is the general consensus at this time that it would not be proper to tax just one segment of the mutual insurances.

The next meeting of the Business and Industry Committee will be on Tuesday, February 3, 1987.

There being no further business, Chairman Kolstad adjourned the meeting at 11: 21 a.m.

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/30/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
DELWYN GAGE		✓	
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

fairness which would result from passage of SB 218.

OPPONENTS: There were no opponents to SB 218.

DISCUSSION OF SENATE BILL NO. 218: Vice Chairman Neuman called for questions from the Committee. There were none.

Sen. Meyer closed the hearing on SB 218 stating that he feels it is a very good bill and explained that he takes care of two 74 year old people who are constantly dogged by insurance people trying to change their health coverage. He said that several times his mother-in-law was just about ready to sign a check and buy another policy which would have been a big mistake as she would have had a long waiting period and would, therefore, been without coverage for a considerable length of time. He feels that the state really does need a bill like SB 218.

Executive action on SB 218 will be taken at a later date.

FURTHER CONSIDERATION OF HOUSE BILL NO. 68: Vice Chairman Neuman announced that there were several people who had come from Kalispell to give additional testimony on House Bill 68. They had stayed in Helena an additional day to give this testimony and the testimony is as follows:

Clayton Bayne, Chairman of the Board of Private Security and Investigators stated that he had come to oppose any amendment to HB 68 to exclude proprietary people from the code which HB 68 refers to. His reason for opposing such an amendment was that when that particular code was drafted in 1983 by a task force comprised of both proprietary and contract security people, they decided that because the duties, the responsibilities and problems were quite similar between the two, they should both be licensed. He said he had contacted the Board members and they are all in agreement that he take this stand and asked to withdraw his amendment which was proposed when the bill was initially heard. He said the amendment would really leave everything wide open and would not accomplish what they had had in mind. He stated he had talked with the Board attorney who feels that people employed by retail merchants who do not have any responsibility for the private security of a firm, are actually exempt from the law and would not be licensed, however, the way the bill presently reads, people who are actually assigned to specifically do security work for the firm would have to be licensed.

Robert B. Evans, Kalispell, who runs a business there and is past president of the State of Montana Private Investigators and Security Operators, stated he had appeared before the Committee at the initial hearing to urge the Committee to pass the bill as it came from the House. He said that over a year of work had been put into the bill and to amend it as Mr. Bayne previously

suggested would change the purpose of the law which is to protect the public from illegal, improper or incompetent actions. He said that exempting the proprietary personnel or in-house security does not protect the public and it lets each individual, local owner or operator determine his own training standards. He urged the Committee to pass the bill as it was transmitted from the House.

Mr. Craig Christie, Billings, owner of Legal Investigation Bureau, a private investigating firm and a contract security company, and Secretary-Treasurer of the Montana Association of Private Investigators and Security Operators, stated that since 1983 when the initial bill governing security operators and private investigators was enacted, they have run into several problems. Some of those problems have to do specifically with exemptions. He feels they have, over the past several years, upgraded the qualifications in the services provided by private entities, and that for the first time since the inception of the licensing board, the board, the state association and private industry, coupled with the Montana Sheriffs and Peace Officers Association, is in total agreement with regard to the specific issue addressed in HB 68. He feels if the bill is passed as it came from the House, they will not have to come back next session to try to overcome problems. He urged the Committee to pass the bill as written without amendments.

Mr. Fred Valiton of Helena with the Valco Security Service Company, stood in support of HB 68 and urged that the Committee give the bill a Do pass recommendation without amendments.

FURTHER DISCUSSION OF HOUSE BILL NO. 68: Vice Chairman Neuman called for questions from the Committee.

Sen. Walker asked Mr. Bayne about stores that have security programs and in-house training and if they are able to meet the training specifications of the Board if they would be able to get the license without further training. Mr. Bayne answered that the Board recognizes programs that meet the training criteria which the Board has set and they have authorized various agencies to go ahead and use these programs to train their people. The Board does have certified instructors out in the field who are available to train personnel from companies who do not have a training program.

Sen. Boylan wanted to know if the uniformed security students at MSU in Bozeman are undergoing training. Mr. Bayne stated they are under the supervision of the security police who are certified. The security students are exempt under the code because they are working for a governmental entity.

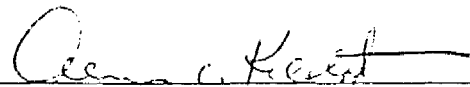
Sen. Thayer asked Mr. Bayne how much the fee would be if a store had its own security system. Mr. Bayne answered the license for the store, would cost \$75. For each individual that is hired an additional fee of \$75 is charged for processing which includes an examination, finger printing, etc.

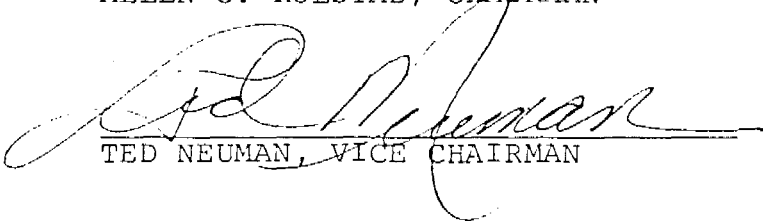
Vice Chairman Neuman asked Chuck O'Reilly, Lewis and Clark County Sheriff if he had anything to add. Mr. O'Reilly said he wanted to express his support of HB 68 and wanted the record to show that he does not support the amendment that is being withdrawn by Mr. Bayne.

Sen. Walker asked Mr. O'Reilly if he had seen any problems with arrests made by persons who were not licensed. Mr. O'Reilly said that those people do not have good training, in a number of cases, and perhaps no training whatsoever and an 18 year old could be turned loose with a badge and a gun to handle security for a business. This could prompt lawsuits by citizens who, perhaps, had his rights abused or was physically abused, as has been the case. He said they have heard story after story about this type of circumstance, on a national level, because of untrained store security.

The next meeting of the Business and Industry Committee will be held on Thursday, February 5, 1987.

There being no further business, Vice Chairman Newman adjourned the meeting at 12:03 p.m.


ALLEN C. KOLSTAD, CHAIRMAN


TED NEUMAN, VICE CHAIRMAN

cal/lis

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/4/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DATE

2/4/87

COMMITTEE ON

Business & Industry

BILL NO.

#B68

VISITOR'S REGISTER

NAME

REPRESENTING

Check One

Support Oppose

Robert B. Crane

M.A.P.I.S.O.

✓ w/o membership

Clayton Bain

Board of Private Security

✓ w/o membership

Craig Christie

M.A.P.I.S.O.

✓ w/o membership

Fred D. Gifford

MAPISO

✓ w/o membership

Chuck O'Reilly

Int. Shoppers & Peace Officers
Assoc.

✓ w/o membership

(Please leave prepared statement with Secretary)

Mr. Allen stated his reasons for wanting the amendments. He said they felt they were infringing on an area in which these people made their living and they were competing with the government agencies. They felt the amendments really gutted the bill and as a compromise he had talked with Sen. Thayer to express his concern about the full-time employee that works for one company doing many jobs for security. He also said there are very few retail employers large enough in Montana that can afford to have a full-time security person that does nothing but security. He said the intent of the amendment is to exclude anyone working for a single employer who does no moonlighting. He stated that the training is an important part of the program, whether in-house or by the sheriff or police.

Sen. Walker asked if they wanted to omit anyone on line 22, page 6. Ms. McCue said she did not think they wanted to drop that because that covers a different situation. Mr. Allen said that the stores with which he was acquainted had good, if not better, security training than what the state provides, and they are only talking about a handful of stores that can provide a full-time security in-house program.

EXECUTIVE ACTION ON HOUSE BILL NO. 68: Sen. Thayer MOVED ADOPTION OF THE AMENDMENT, seconded by Sen. Boylan. There being no further discussion on the motion, the MOTION PASSED UNANIMOUSLY.

Sen. Thayer MOVED that HB 68 BE CONCURRED IN AS AMENDED, the MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 115: Sen. Thayer MOVED ADOPTION OF THE AMENDMENTS to SB 115, seconded by Sen. Boylan. The MOTION CARRIED UNANIMOUSLY.

Sen. Neuman asked how many agents would be affected by this to which Bonnie Tippy replied there are a lot of different numbers in the insurance commissioner's office; they say there are around 8,000 agents in Montana and 1500 appointments but they do not have the specifics on exactly how many. Their educated assumption is there are 4,000 agents and at \$20 per head that is \$80,000. They want the fees to be exactly what it costs to run the program and not to be another source of revenue.

Sen. Thayer MOVED SB 115 DO PASS, seconded by Sen. Boylan. The MOTION PASSED UNANIMOUSLY.

Business & Industry Committee
February 5, 1987
Page 10

The next meeting of the Business & Industry Committee will be on Friday, February 6, 1987. Chairman Neuman adjourned the meeting at 11:47 a.m.


SEN. TED NEUMAN, VICE-CHAIRMAN

ADDENDUM TO THE MINUTES: Due to continued problems with this bill (HOUSE BILL 68), amendments and the necessity of adding a statement of intent, it was once again pulled back into the committee for further consideration. Therefore, no committee report on HB 68 is included with this set of minutes.

c1

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/5/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

prepare something and pass that out to all entities so that they will know.

Sen. Williams wanted to know how the selections would be made under the \$5,000 (or \$10,000) limit situation and Mr. Cummings explained that the bill states that an agency MAY encourage firms to submit annually a statement of qualifications and performance data. Those firms will then be evaluated together with other firms interested in submitting bids regarding the proposed project. The agency shall then select, based on criteria established under agency procedures and guidelines and the law, the firm considered most qualified to provide the services required.

The hearing was closed on House Bill No. 310.

EXECUTIVE ACTION ON HOUSE BILL NO. 68: Due to numerous problems with this bill it was brought back into the committee for further consideration. A MOTION by Sen. Cecil Weeding that HB 68 BE RECONSIDERED was Seconded by Sen. Darryl Meyer and PASSED UNANIMOUSLY.

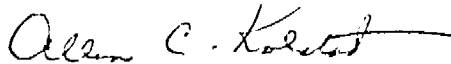
A MOTION by Sen. Darryl Meyer that the AMENDMENT TO HB 68 BE ADOPTED was Seconded by Sen. Weeding and PASSED UNANIMOUSLY.

Sen. Gene Thayer moved that THE STATEMENT OF INTENT FOR HB 68 BE ADOPTED. The Motion was Seconded by Sen. Paul Boylan and PASSED UNANIMOUSLY.

Sen. Cecil Weeding made the MOTION that HB 68 BE CONCURRED IN AS AMENDED. The MOTION was Seconded by Sen. Tom Hager and PASSED UNANIMOUSLY.

The next meeting of the committee was announced by Chairman Kolstad to be held on Wednesday, February 11, 1987.

All business being completed for the day, the meeting was adjourned by Chairman Kolstad at 11:57 a.m.



SENATOR ALLEN C. KOLSTAD, CHAIRMAN

February 10, 1987

MR. PRESIDENT:

WE, YOUR COMMITTEE ON BUSINESS & INDUSTRY HAVING HAD
UNDER CONSIDERATION HOUSE BILL NO. 68, ATTACH THE
FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

HB Bill No. 68

A statement of intent is required for this bill because in section 3 it expands the authority of the board of private security patrolmen and investigators to provide for the application of administrative fines and penalties for minor infractions of Title 37, chapter 60, and the supporting rules.

It is the intent of the legislature that the board adopt rules that conform with chapter 60 and other applicable statutes. Administrative fines and penalties for minor infractions of the chapter or of the board's rules must be commensurate with the gravity of the infraction, and the board may not suspend or revoke a license granted under this chapter except upon indisputable evidence of violation of this chapter, other applicable statutes, or the board's rules.

STANDING COMMITTEE REPORT

FEBRUARY 10, 19 57

MR. PRESIDENT

We, your committee on.....BUSINESS AND INDUSTRY.....

having had under consideration.....HOUSE BILL..... No. 66

THIRD reading copy (BLUE)
color

KITSELMAN (MEYER)

REVISING SECURITY PATROLMEN AND INVESTIGATORS LAW

Respectfully report as follows: That.....HOUSE BILL..... No. 63

be amended as follows:

1. Page 6, line 22.

Following: "(1)"

Insert: "(a)"

2. Page 7, following line 2.

Insert: "(b) a person:

- (i) employed singly and exclusively by a retail merchant;
- (ii) performing at least some of his work for the retail merchant as a private security guard; and
- (iii) who has received training as a private security guard from the employer or at the employer's direction;"

3. Page 16, line 7.

Strike: ", registration,"

And as amended,
BE CONCURRED IN

STATEMENT OF INTENT ADOPTED AND ATTACHED

XXXXXX
DO PASS

XXXXXXXXXX
DO NOT PASS

ALLEN C. KOLSTAD,

Chairman.

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/10/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

FEBRUARY 10, 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 68

THIRD reading copy (BLUE color)

KITSELMAN (MEYER)

REVISING SECURITY PATROLMEN AND INVESTIGATORS LAW

Respectfully report as follows: That HOUSE BILL No. 63

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- (iii) who has received training as a private security guard from the employer or at the employer's direction;"

3. Page 16, line 7.

Strike: ", registration,"

And as amended,
BE CONCURRED IN

STATEMENT OF INTENT ADOPTED AND ATTACHED

XXXXXX
DO PASS

XXXXXXXXXX
DO NOT PASS

ALLEN C. KOLSTAD,

Chairman.